

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JONATHAN KING MEYER,

Plaintiff,

CASE NO. 1:14-CV-536

v.

HON. ROBERT J. JONKER

JOSEPH NATOLE, *et al.*,

Defendants.

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Kent's Report and Recommendations dated February 16, 2016 and February 26, 2016 (docket ## 232, 237) and Plaintiff Meyer's Objections (docket ## 238, 242). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, "[t]he district judge . . . has a duty to reject the magistrate judge's recommendation unless, on de novo reconsideration, he or she finds it justified." 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 451 (3d ed. 2014). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; both

Reports and Recommendations; and Plaintiff's objections. After its review, the Court finds that Magistrate Judge Kent's Report and Recommendations are factually sound and legally correct.

The Magistrate Judge recommends granting summary judgment in favor of Defendants Nelson, Marcules, and LaBrie on the federal claims against them (docket ## 232, 237). In his objections (docket ## 238, 243), Plaintiff primarily reiterates and expands upon arguments made in earlier filings. Nothing in his objections changes the fundamental analysis as to Defendants Nelson, Marcules, or LaBrie. Plaintiff's constitutional claims against Defendant Nelson are premised on decisions to prescribe Trazodone and Celexa. Defendant Nelson, a licensed master's social worker, lacks authority to prescribe drugs or practice medicine. The Magistrate Judge properly found that Plaintiff cannot establish the subjective component of a deliberate indifference claim against Defendant Nelson. Plaintiff's deliberate indifference claims against Defendants Marcules and LaBrie likewise fail, for precisely the reasons detailed in the Report and Recommendation (docket # 237, PageID.3010-3015).

ACCORDINGLY, IT IS ORDERED that the Reports and Recommendations of the Magistrate Judge (docket ## 232, 237) are approved and adopted as the opinion of the Court.

IT IS FURTHER ORDERED that Defendant Nelson's Motion for Summary Judgment (docket # 64) is **GRANTED** as to Counts 19, 20, and 21.

IT IS FURTHER ORDERED that Plaintiff's state law claims against Defendant Nelson set forth in Counts 22, 23, 24, 25, 26, and 27 are **DISMISSED WITHOUT PREJUDICE** under 28 U.S.C. § 1367).

IT IS FURTHER ORDERED that Defendant Marcules and LaBrie's Motion for Summary Judgment (docket # 104) is **GRANTED** as to the claims of deliberate indifference alleged in Counts 61 and 65.

IT IS FURTHER ORDERED that Plaintiff's state law claims against Defendants Marcules and LaBrie set forth in Counts 62, 63, 64 are **DISMISSED WITHOUT PREJUDICE** under 28 U.S.C. § 1367.

IT IS FURTHER ORDERED that Defendants Nelson, Marcules, and LaBrie are **DISMISSED** from this action.

Dated: March 23, 2016

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE